

Planning Services

IRF19/2530

Gateway determination report

LGA	Goulburn Mulwaree
PPA	Goulburn Mulwaree Council
NAME	Inclusion of RU6 Transition Zone in clauses 4.1AA and 4.2B of Goulburn Mulwaree LEP 2009 (0 homes, 0 jobs)
NUMBER	PP 2019 GOULB 003 00
LEP TO BE AMENDED	Goulburn Mulwaree LEP 2009
ADDRESS	All land zoned RU6 Transition
DESCRIPTION	Various
RECEIVED	29 March 2019
FILE NO.	IRF19/2530 (EF19/13866)
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required.
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal.

1. INTRODUCTION

1.1 Description of planning proposal

The planning proposal seeks to include the RU6 Transition Zone within clauses 4.1AA (Minimum subdivision lot size for community title schemes) and 4.2B (Minimum subdivision lot size for strata subdivisions of residential or tourist and visitor accommodation in certain zones) of the Goulburn Mulwaree LEP 2009 (GMLEP) in relation to the application of minimum allotment sizes specified in clause 4.1. The purpose of the planning proposal is to ensure that land is not fragmented in the RU6 Transition Zone area around Goulburn, Marulan and Tallong because of inappropriate subdivision and residential/rural residential development.

1.2 Site description

The subject land includes all land zoned RU6 Transition, which is predominantly located around the urban fringe of Goulburn, Marulan and Tallong (Figure 1 – Locality Map).



Figure 1 – Locality Map (source: 2019 Google Maps)

Existing planning controls

The subject land is zoned RU6 Transition under the GMLEP (Figure 2 – Current zoning map). The RU6 zoning permits a range of transitional uses, such as rural residential, between urban areas and surrounding agricultural uses.

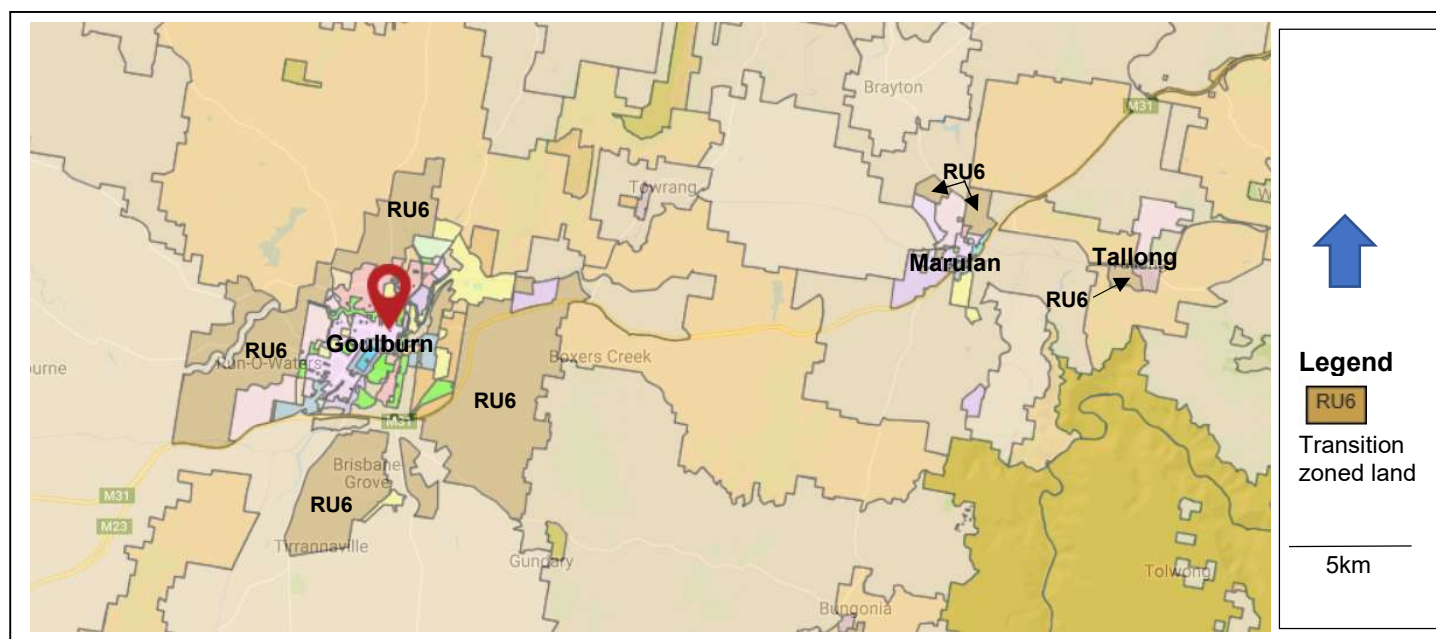


Figure 2 – Current Zoning Map (source: NSW Planning Portal)

Several minimum subdivision lot sizes apply to the subject land under the Goulburn Mulwaree LEP 2009 Lot Size Maps, namely 20ha to 40ha for Goulburn, 100ha for Marulan and 10ha for Tallong. Applications for Torrens title subdivision must meet the applicable minimum lot size standard under clause 4.1 of the GMLEP. The lot size maps do not, however, apply to strata and community title subdivision on land zoned RU6 under clauses 4.1, 4.1AA and 4.2B of the LEP.

1.4 Surrounding area

The subject land adjoins the Goulburn, Marulan and Tallong urban area and adjoining agricultural land uses.

1.5 Summary of recommendation

It is recommended that the planning proposal proceed as submitted for the following reasons:

- The proposal will ensure that strata and community title development of land zoned RU6 Transition in the peri-urban areas of Goulburn, Marulan and Tallong is required to meet the minimum lot size requirements provided on the applicable lot size maps in the GMLEP.
- The proposal will facilitate protection of rural and environmental land and minimise land use conflict between urban and rural areas consistent with the objectives of the RU6 Zone.
- The proposal is consistent with the South East and Tablelands Regional Plan and Goulburn Mulwaree's local planning strategies including the draft Goulburn Mulwaree Urban and Fringe Housing Strategy.

2. PROPOSAL

2.1 Objectives or intended outcomes

The planning proposal states that the intended outcome of the proposal is to introduce the RU6 Transition Zone into clauses 4.1AA and 4.2B of the GMLEP.

Comment: It is considered that the intended outcome of the planning proposal provided does not clearly indicate the purpose of the planning proposal to ensure that strata and community title subdivision of land zoned RU6 Transition meets the minimum lot size requirement for the land provided under the GMLEP.

Recommendation: That Council revise the planning proposal to clarify the objectives or intended outcome.

2.2 Explanation of provisions

The planning proposal states that the explanations of the provisions of the proposal are as follows:

1. Amendment of the Goulburn Mulwaree LEP 2009 Clause 4.1AA Minimum subdivision lot size for community title schemes by inserting the RU6 Transition Zone under subclause (2).
2. Amendment of the Goulburn Mulwaree LEP 2009 Clause 4.2B Minimum subdivision lot size for strata subdivision of residential or tourist and visitor accommodation in certain zones by inserting the RU6 Transition Zone under subclause (2).

Comment: It is considered that the explanation of the provisions provided is generally clear. Although a copy of the provisions proposed to be amended are provided in Council's report, it would be preferable if a copy of the provisions were provided upfront in the planning proposal.

Recommendation: The planning proposal is revised to include a copy of the relevant provisions of the GMLEP proposed to be amended.

2.3 Mapping

The planning proposal does not propose any amendments to GMLEP maps. The proposal does not include any maps showing the location of land affected by the planning proposal. However, a map showing the location of RU6 zoned land surrounding Goulburn is provided in Council's report, which is proposed to be exhibited with the planning proposal.

Recommendation. That the planning proposal is revised to include a map(s) showing the location of all land zoned RU6 affected by the planning proposal.

3. NEED FOR THE PLANNING PROPOSAL

The planning proposal states that the proposal is needed to ensure that development within the RU6 Transition Zone is undertaken in an orderly manner to ensure the planned and efficient utilisation of services. Currently, the exclusion of the RU6 Transition Zone from the provisions of Clause 4.1AA and 4.2B of the GMLEP is contradictory to the minimum lot sizes identified for land zoned RU6 Transition.

The planning proposal states that a planning proposal is the best means of facilitating an amendment of the relevant provisions of the GMLEP to ensure that strata and community title subdivision meets the applicable minimum lot size provisions.

Comment: It is considered that the planning proposal is needed to ensure orderly and planned development of land zoned RU6 Transition in the peri-urban area of Goulburn, Marulan and Tallong. Council previously proposed including the RU6 Zone in clauses 4.1AA and 4.2B of the GMLEP as part of a previous planning proposal PP_2016_GOULB_003_00. During the finalisation of the planning proposal Council resolved not to include the RU6 Zone in clauses 4.1AA and 4.2B as it wanted to consider the matter further during the preparation of a draft Goulburn Mulwaree Urban and Fringe Housing Strategy.

Council has now prepared and exhibited the draft Strategy and is concerned there is potential for development applications for residential subdivision on the fringes of Goulburn and other towns which may lead to unplanned development, which could undermine the intent of the draft Strategy to identify appropriate locations for urban expansion.

It is considered that the planning proposal is needed to ensure orderly development within the RU6 Transition Zone around Goulburn and other towns and to support the intent of Council's draft Urban and Fringe Housing Strategy. It is considered that the planning proposal process is the appropriate mechanism to facilitate the necessary amendment of the GMLEP.

4. STRATEGIC ASSESSMENT

4.1 Regional

The planning proposal identifies that the proposal is consistent with the following Goals, Directions and Actions of the South East and Tablelands Regional Plan:

- Goal 4: Environmentally sustainable housing choices
- Direction 25: Focus housing growth in locations that maximise infrastructure and services

- Actions 25.1 and 25.2, which require that future settlement is located to maximise existing infrastructure and services, prioritises increased densities within existing urban areas and prioritises new release areas within existing urban areas.

The planning proposal states that the proposal is consistent with the above goals, directions and actions because it will provide for the orderly development of land within the RU6 Transition Zone by requiring compliance with the minimum allotment sizes expressed on applicable lot size maps. The current exclusion of the RU6 Zone from Clauses 4.1AA and 4.2B permits residential development that does not maximise existing infrastructure and services and does not prioritise new releases which are extensions to existing centres.

Comment: It is considered that the planning proposal is consistent with Goal 4, Direction 25 and Actions 25.1 and 25.2 for the reasons provided in the planning proposal and the proposal will ensure the orderly development of land zoned RU6 located in peri-urban areas of Goulburn, Marulan and Tallong and support the development of planned urban release areas such as at Marys Mount in Goulburn.

The planning proposal states that it is also consistent with the following Direction and Actions of the Regional Plan:

- Direction 28: Manage Rural Lifestyles
- Action 28.1: Requires new rural residential development to be identified in a local housing strategy which has been approved by the Department of Planning and Environment (DPE)
- Action 28.2: Requires new residential development to be located close to existing well serviced urban settlements, avoiding potential land use conflict and avoiding areas of environmental or cultural heritage significance.

The planning proposal states that the proposal is consistent with the Direction and Actions because it is seeking to restrict new development to locations identified in the draft Urban and Fringe Housing Strategy (once adopted by Council and endorsed by the DPE). The current provisions of the GMLEP have the potential to locate new rural residential development in locations that are not consistent with Council's draft strategy.

Comment: It is considered that the planning proposal is consistent with the Directions and Actions of the Regional Plan for the reasons provided in the planning proposal, notably that it will support the planned development of Goulburn Mulwaree's urban and fringe areas, particularly Goulburn and Marulan, consistent with Council's draft Urban and Fringe Housing Strategy.

4.2 Local

The planning proposal states that the proposal is consistent with the following local strategies:

Goulburn Mulwaree Strategy 2020

The planning proposal states that the proposal is consistent with Council's adopted objectives for agricultural lands Goulburn Mulwaree Strategy 2020, notably protecting prime agricultural land, preventing inappropriate fragmentation/development of agricultural land. The planning proposal meets these objectives as the proposal seeks to prevent the fragmentation of rural land zoned

RU6 for the creation of large lot residential subdivision. This is consistent with the objective of the RU6 Zone to provide a buffer between towns and rural areas to minimise the interface impacts between residential and rural land uses.

Comment: It is considered that the planning proposal is consistent with the Goulburn Mulwaree Strategy 2020 as it will protect rural land from fragmentation and inappropriate/unplanned development.

Goulburn Mulwaree Community Strategic Plan

The planning proposal states that the proposal is consistent with the Goulburn Mulwaree Community Strategic Plan 2030, particularly Key Direction 1 (Quality infrastructure) and Goal 1.7 (Asset Management). This is because the proposal seeks to reduce the potential for ad hoc residential development on land that is not currently serviced or identified for significant residential development.

Comment: Council's view that the planning proposal is consistent with the Community Strategic Plan is supported because the proposal will facilitate orderly and appropriate development of peri-urban land around Goulburn, Marulan and Tallong consistent with the RU6 zone objectives consistent with Council's infrastructure and servicing plans.

Draft Goulburn Mulwaree Urban and Fringe Housing Strategy

Council has prepared a draft Goulburn Mulwaree Urban and Fringe Housing Strategy, which aims to identify suitable locations to provide for urban growth in and around Goulburn and Marulan, including consideration of land Zoned RU6 Transition, taking into consideration environmental, hazards, infrastructure and other constraints.

Council is currently considering submissions received during the January- February 2019 exhibition of the draft strategy. Council is concerned that development applications for residential subdivision on land zoned RU6 could lead to unplanned development on the fringes of Goulburn and Marulan and undermine the intent of the draft Strategy to identify suitable locations and criteria for urban expansion. The planning proposal states that the proposal is consistent with criteria provided in the draft Strategy to provide for the identification and location of suitable land for development.

Comment: Council's view that the planning proposal is consistent with the draft Goulburn Mulwaree Urban and Fringe Housing Strategy is supported because the proposal will ensure that development on land zoned RU6 surrounding Goulburn, Marulan and Tallong will meet Council's adopted minimum lot sizes for the land as well as support the intent of the draft Strategy to identify suitable locations and criteria for urban expansion.

4.3 Section 9.1 Ministerial Directions

The planning proposal identifies the following Directions apply and the proposal is consistent with each Direction:

1.2 Rural Zones

The planning proposal states that the proposal is consistent with the Direction because it does not propose to rezone any land or include any changes that will increase dwelling density in rural zones. Council's view that the planning proposal is consistent with the Direction is supported.

1.5 Rural Lands

The planning proposal states that it is consistent with the terms of the Direction, notably it:

- is consistent with the South East and Tablelands Regional Plan.
- will have no negative impact on the agricultural or primary production value of land zoned RU6.
- will prevent fragmentation of rural land acting as a transition zone between the towns and productive agricultural areas.
- will not impact on important environmental areas, cultural heritage or water resources.

Council's view that the planning proposal is consistent with the Direction is supported.

2.3 Residential Zones

The planning proposal states that the proposal is consistent with the Direction. It is, however, considered that the Direction does not apply to the planning proposal because the proposal does not affect land in an existing or current residential zone or any other zone in which significant residential development is or proposed to be permitted.

4.3 Planning for Bushfire Protection

The planning proposal affects land identified as bushfire prone and so the Direction applies. The planning proposal states that the proposal is likely to be consistent with Planning for Bushfire Protection Guide because it will not place inappropriate development in a bushfire prone area. Council proposes to consult with the Rural Fire Service as required by the Direction.

Comment: It is unknown at this stage whether the proposal is consistent with the Direction until Council has consulted with RFS.

Recommendation: That Council consult with the RFS as required by the Direction and provide further information to demonstrate compliance with the Direction.

5.1 Sydney Drinking Water Catchment

The planning proposal states that the proposal affects land mapped as part of the Sydney Drinking Water Catchment but is unlikely that the planning proposal will result in a negative impact on water quality. Council has consulted with WaterNSW on the planning proposal as required by the Direction. WaterNSW has not raised any issues or concerns with the planning proposal but has requested it be consulted further if a positive Gateway determination is issued.

Comment: It is considered that the planning proposal is likely to be consistent with the Direction because the proposal is seeking to minimise inappropriate development in the unserviced peri-urban areas of Goulburn and Marulan which are located within the Sydney Drinking Water Catchment.

Recommendation: That Council consult further with WaterNSW during the exhibition of the planning proposal.

5.10 Implementation of Regional Plans

Although not identified in the planning proposal, the Direction also applies to the proposal. As previously discussed, it is considered that the planning proposal is consistent with the Direction.

Recommendation: That the planning proposal is revised to include an assessment of consistency of the planning proposal with Direction 5.10 Implementation of Regional Plans.

4.4 State environmental planning policies (SEPPs)

The planning proposal identifies that the following SEPPs are relevant and that the proposal is consistent with these SEPPs:

SEPP (Primary Production and Rural Development) 2019

The planning proposal states that the proposal is consistent with the SEPP because it will facilitate the orderly economic use and development of lands for primary production, will reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and environment protection, consistent with the aims of the SEPP. Council's view that the planning proposal is consistent with the SEPP is supported.

SEPP (Sydney Drinking Water Catchment) 2011

The planning proposal states that the proposal is consistent with the SEPP because it will facilitate the appropriate and orderly development of land zoned RU6 and achieve a neutral or beneficial effect on water quality as required by the SEPP. Council's view that the planning proposal is consistent with the SEPP is supported.

5. SITE-SPECIFIC ASSESSMENT

5.1 Social

The planning proposals states there are negligible social impacts as a result of the proposal.

Comment: It is considered that the planning proposal will have positive social impacts by preventing inappropriate development/fragmentation of land zoned RU6 in the peri-urban areas of Goulburn, Marulan and Tallong and maintain the intent of the land as a transitional buffer between urban and agricultural areas.

5.2 Environmental

The planning proposal states that although land affected by the proposal may contain critical habitat or threatened species, populations or ecological communities or their habitats, environmental impacts are likely to be reduced by the proposal to require residential development to meet minimum lot size standards.

Comment: It is considered that the planning proposal will have positive environmental impacts because it seeks to require development in the RU6 Zone, which is known to contain threatened species and endangered ecological communities, to meet the minimum lot size standards provided on lot size maps in the GMLEP.

5.3 Economic

The planning proposal states that the proposal is likely to have negligible economic impacts. The planning proposal indicates that affected landowners have the option

of using lot averaging provisions provided in the GMLEP to develop their land while protecting the rural and environmental values.

The planning proposal identifies that the proposal will not facilitate development that will result in additional demand on infrastructure as it is intended to prevent inappropriately located residential subdivision in relation to existing and proposed public infrastructure.

Comment: It is considered that the planning proposal will have a positive economic impact by ensuring appropriate and orderly development around Goulburn, Marulan and Tallong and supporting Council's draft Urban and Fringe Housing Strategy which identifies suitable locations and criteria for appropriate new urban and rural residential development.

6. CONSULTATION

6.1 Community

Council has proposed a 14 day exhibition period for the planning proposal. Council intends to exhibit the planning proposal via newspaper advertisement and on Council's website.

Comment: It is considered that the proposed community consultation is suitable. Council previously proposed including the RU6 Zone in clauses 4.1AA and 4.2B of the GMLEP as part of a previous planning proposal PP_2016_GOULB_003_00 which did not receive any objections from submissions received during the exhibition period. A 14 day exhibition period is therefore considered adequate.

Recommendation: That the planning proposal is exhibited for a 14 day period.

6.2 Agencies

Council proposes to consult with the NSW Rural Fire Service and WaterNSW on the planning proposal. The proposed agency consultation is considered appropriate.

Recommendation: That Council consult with the NSW Rural Fire Service and WaterNSW on the planning proposal.

7. TIME FRAME

Council has proposed a 6 month timeframe to prepare and finalise an LEP. Given the local/minor nature of the proposal a 6 month timeframe is considered appropriate.

8. LOCAL PLAN-MAKING AUTHORITY

Council has requested to be the local plan-making authority. Given the local/minor nature of the planning proposal it is considered that Council's request has merit and should be supported.

Recommendation: That Council's request to be the local plan-making authority is supported.

9. CONCLUSION

Preparation of the planning proposal is supported to proceed with conditions for the following reasons:

- The proposal will ensure that strata and community title development of land zoned RU6 Transition in the peri-urban areas of Goulburn, Marulan and Tallong is required to meet the minimum lot size requirements provided on lot size maps in the GMLEP.
- The proposal will facilitate protection of rural and environmental land and minimise land use conflict between urban and rural areas consistent with the objectives of the RU6 Zone.
- The proposal is consistent with the South East and Tablelands Regional Plan and Goulburn Mulwaree's local planning strategies including the draft Goulburn Mulwaree Urban and Fringe Housing Strategy.

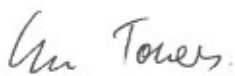
10. RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. note that the consistency with section 9.1 Direction 4.4 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service.
 - WaterNSW.
3. The time frame for completing the LEP is to be 6 months from the date of the Gateway determination.
4. Given the nature of the planning proposal, Council should be the local plan-making authority.
5. The planning proposal is revised to:
 - clearly indicate the purpose of the planning proposal, eg to ensure that strata and community title subdivision of land zoned RU6 Transition meets the minimum lot size requirement for the land provided on lot size maps in the GMLEP.
 - include a copy of the relevant provisions of the GMLEP proposed to be amended.
 - include a map(s) showing the location of all land zoned RU6 affected by the planning proposal.
 - include an assessment of consistency of the planning proposal with Section 9.1 Direction 5.10 Implementation of Regional Plans.



24/4/19

Graham Towers
Team Leader, Southern Region



1/5/19

Ben Eveleigh
Director Regions, Southern
Planning Services

Assessment officer: George Curtis
Senior Planner, Southern Region
Phone: 42471824